

Applicant: Iulius Vivant Dutu
Serial No: 10/709,268
Page 7

REMARKS

This Amendment is responsive to the Office Action dated January 19, 2005. In that Action, the Examiner rejected claims 1-2 under 35 U.S.C. §102(e) as allegedly being anticipated by McBain. Applicant respectfully traverses the Examiner's rejection of the claims and offers the foregoing amendments and following remarks in support thereof.

Claim 2 has been canceled without prejudice by this Amendment. Claim 1 has been amended. Claims 3-24 have been added. No new matter has been inserted. Claims 1 and 3-24 remain pending in the application. Applicant respectfully requests reconsideration of the Examiner's rejections.

As to the Section 102 rejection, McBain fails to teach of providing predefined flight path information for an air vehicle and initiating the system when a change in the predefined flight path exceeds a predefined threshold (Independent Claims 1, 5, 7 and 16). McBain merely works off vital information of the pilot (i.e. pulse, heart beat, stress level, etc.). McBain also fails to teach of the system override being achieved by an individual on the air vehicle. Rather, McBain overrides by the ground control.

McBain also fails to teach of a biometric reader for inputting a proper override response or that the override response is based on biometric information of an individual located on the aircraft (i.e. pilot, co-pilot, stewardess, steward, etc.) (Independent claims 7 and 16). McBain merely involves biometrics at the beginning of the process to sense a change in mental/physical condition of the pilot. Biometrics are not used as an input or to override the system.

McBain also fails to teach of a predefined air space for use as a universal safe flight path for air vehicles traveling in the air (Independent Claim 20). Rather, McBain directs a specific air

Applicant: Iulius Vivant Dutu
Serial No: 10/709,268
Page 8

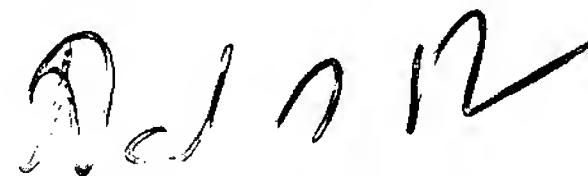
vehicle to a safe air location based on the air vehicle's current location in the air.

Accordingly, in view of the above, Applicant respectfully requests that McBain be withdrawn as a reference.

Applicant has completely responded to the Office Action dated January 19, 2005. Favorable action is respectfully requested.

Any additional charges, including Extensions of Time, please bill our Deposit Account No. 503180.

Respectfully submitted,



Daniel S. Polley, Reg. No. 34,902
Daniel S. Polley, P.A.
1215 East Broward Boulevard
Fort Lauderdale, Florida 33301
Phone: (954) 234-2417
Fax: (954) 234-2506
Email: dan@danpolley.com

CUSTOMER NO. 44538